

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1220 OF 2007

Nitin M.Shirodkar & Anr. ..Petitioners

Versus

Smt.Nishigandha N.Shirodkar & Anr. ..Respondents

Mr.N.V.Walawalkar Sr.Counsel with Sudhir Prabhu for the
petitioners.

Mr.D.R.More APP for the Respondent/State.

CORAM : B.H.MARLAPALLE, J

DATE : 8TH OCTOBER, 2007

PC

1. Heard Mr.Walawalkar the learned Senior Counsel for
the petitioners.

2. By this petition filed under Article 227 of the
Constitution of India, the petitioners are seeking to
invoke inherent powers of this Court under Section 482
of Cr.P.C. for quashing the proceedings in criminal
case no.474/S/2000 after having failed before the
Sessions Court in Criminal Application No.411/2006.
The respondent no.1 has filed the said complaint which
is presently pending before the learned Addl.Chief
Metropolitan Magistrate, 5th Court at Dadar for the
offence punishable under Section 494 read with 34 of
IPC against the present petitioners alleging that the
petitioner no.1 Nitin Shirodkar married 2nd time to the

petitioner no.2 Neha on 13.10.1994. She states in her complaint that she was married to the petitioner no.1 on 15.5.1985 at village Talwade.

3. Mr.Walawalkar the learned Counsel for the petitioners submits that it is a frivolous complaint without any documentary support and therefore, to prevent miscarriage of justice the complaint filed by the respondent no.1 deserves to be quashed.

4. The factum of marriage between the petitioner no.1 and respondent no.1 is a matter of evidence oral and documentary that may be filed during the trial of the complaint. It is well settled that such a complaint cannot be dismissed even under Section 245 of Cr.P.C. only on the basis of the documents that accused may bring on record. All these documents will have to be tested during the trial and therefore, this is not a fit case to exercise powers under Section 482 of Cr.P.C.

5. Hence, the petition is rejected summarily. However, it is directed that the trial in C.C.No.474/S/2000 be expedited and be completed preferably by 31.5.2008 and undoubtedly on its own merits.

(B.H.MARLAPALLE, J)